

ASSEMBLY BILL

No. 67

Introduced by Assembly Member Negrete McLeod

December 10, 2002

An act to amend Sections 20161, 20467, 20530.1, 20533, 20752, 20814, 20822, 20826, 20903, 21051, 21261, 21407, 21424, 21465, 21499, 21535, 21621, 22857, 50953, 75093, 75094, 75580, and 75590 of, to amend and renumber Section 75030.9 of, to amend the heading of Part 3.4 (commencing with Section 21750) of Division 5 of Title 2 of, to add Sections 9359.02, 75031.5, and 75506.6 to, and to repeal Sections 20162, 20791, 20794, 20795, 20796, 20800, 20801, 20802, 20804, 20807, 20908, 21000, 21262, and 21401 of, the Government Code, relating to public employees' retirement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as introduced, Negrete McLeod. Public employees' retirement.

(1) The Legislators' Retirement Law establishes various retirement benefits for members of that system.

This bill would provide that the amount of compensation used to compute benefits for specified members of that system cannot exceed the limitations placed upon retirement systems by certain provisions of the federal Internal Revenue Code.

(2) Under the Public Employees' Retirement Law, the system may dispense with a recalculation of benefit payments under certain circumstances.

This bill would revise and recast those provisions.

(3) The Public Employees' Retirement Law authorizes contracting agencies to provide service credit for their employees' prior service, and authorizes the transfer of assets, as specified, in connection therewith.

This bill would additionally authorize interest to be charged in connection with that transfer and would make related changes to this provision.

(4) The Public Employees' Retirement Law provides that the state's employer contribution shall be annually adjusted in the Budget Act according to actuarial assessments of the liability for benefits on account of state employees, as specified, and, for certain members, shall be appropriated annually from the General Fund to the retirement fund. State employer contributions from other funds in the State Treasury are appropriated quarterly.

This bill would delete obsolete provisions that prescribe specific state employer contribution rates for certain members of the system and would provide that the General Fund appropriation to the retirement fund shall be made quarterly. The bill would also make related, conforming changes, and would delete other obsolete provisions.

(5) Existing law authorizes a contracting agency of the Public Employees' Retirement System to elect to provide its employees with additional service credit if certain conditions exist and requires that agency to transmit to the retirement fund an amount equal to the actuarial equivalent of the increase in the member's benefit after the receipt of that service credit.

This bill would instead require the contracting agency making that election to agree that the added cost to the retirement fund for those employees receiving the additional service credit shall be included in the contracting agency's employer contribution rate, as specified.

(6) The Public Employees' Retirement Law requires that the basic death benefit, as specified, be increased by a factor that is based on the difference between the actuarial interest rate, as defined, and 6 percent.

This bill would clarify that no increase to that benefit is provided if the actuarial interest rate is less than 6 percent.

(7) Under existing law, a contracting agency of the Public Employees' Retirement System that has elected a specialized health service plan is required to establish by resolution the employer contribution rates for employees and annuitants.

This bill would provide that the resolution may establish a greater monthly employer contribution for annuitants than employees.



(8) The Volunteer Firefighters Length of Service Award Act authorizes cities, counties, cities and counties, or districts, that have fire departments with volunteer firefighting members, to offer members an award as an incentive for service. Under the act, the award system is administered by the Board of Administration of the Public Employees' Retirement System, and assets of this award program are deposited in the Volunteer Firefighters Length of Service Award Fund.

This bill would specify that assets of that fund attributable to the benefits of registered volunteers of a department shall be subject to the claims of creditors of the department in the case of the department's insolvency.

(9) Under the Judges' Retirement System and the Judges' Retirement System II, retirement benefits for judges are based in part upon creditable service.

This bill would permit active and retired judges of those systems to purchase up to 4 years of service credit for active military service, as specified, performed prior to January 1, 1950, subject to specified limitations. The bill would require the judge to contribute a specified sum to the Judges' Retirement Fund or the Judges' Retirement Fund II to purchase that service credit, thereby making an appropriation.

(10) Under the Judges' Retirement Law, certain benefits are provided to the surviving spouse of a judge who dies in office, as specified.

This bill would clarify that those provisions do not prevent a surviving spouse of a judge from also receiving payments to which he or she may be entitled under the Extended Service Incentive Program.

(11) Under the Judges' Retirement System II Law, a judge who is retired for disability may not receive a retirement allowance, except as specified, while he or she is less than 70 years of age and engages in the practice of law or other gainful occupation.

This bill would instead provide that a judge who is retired for disability may not receive a retirement allowance while he or she, prior to his or her normal retirement age, engages in the practice of law or other gainful occupation involving duties substantially similar to those that the judge was found unable to perform due to his or her disability.

(12) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. Section 9359.02 is added to the Government Code, to read:

9359.02. (a) The amount of compensation used to compute benefits payable to any person who becomes a member of this system on or after July 1, 1996, may not exceed the limitations set forth upon public retirement systems in Section 401(a)(17) of Title 26 of the United States Code, as that section may be amended from time to time and as that limit may be adjusted by the Commissioner of Internal Revenue for increases in cost of living.

(b) The determination of compensation for each 12-month period shall be subject to the annual compensation limit in effect for the calendar year in which the 12-month period begins. In a determination of average annual compensation over more than one 12-month period, the amount of compensation taken into account for each 12-month period shall be subject to the applicable annual compensation limit.

SEC. 2. Section 20161 of the Government Code is amended to read:

20161. Notwithstanding any other provision of this part or of Section 13943.2 or 16302.1 to the contrary, *the following shall apply:*

(a) *When there has been a payment of death benefits or a return of accumulated contributions, this system may refrain from collecting an underpayment of accumulated contributions if the amount to be collected is two hundred fifty dollars (\$250) or less.*

(b) *When there has been a payment of death benefits or a return of accumulated contributions and there is a balance of fifty dollars (\$50) or less remaining posted to a member's individual account, this system may dispense with a return of accumulated contributions.*

(c) *When there is a positive or negative balance of two hundred fifty dollars (\$250) or less remaining posed to a member's individual account, or the balance exceeds two hundred fifty dollars (\$250) but the difference to the monthly allowance unmodified by any optional settlement is less than five dollars (\$5), this system may dispense with any recalculation of, or other adjustment to, benefit payments, and shall not effect a collection or return of accumulated contributions when there has been a*

1 ~~payment of retirement or death benefits or a return of accumulated~~
2 ~~contributions, and either (a) there is a plus or minus balance of fifty~~
3 ~~dollars (\$50) or less remaining posted to a member's individual~~
4 ~~account, or (b) the balance exceeds fifty dollars (\$50) but the~~
5 ~~difference to the monthly allowance unmodified by any optional~~
6 ~~settlement is less than one dollar (\$1).~~

7 *(d) The dollar amounts specified in subdivisions (a) and (c)*
8 *shall be adjusted in accordance with any changes in the dollar*
9 *amounts specified in Section 13943.2.*

10 SEC. 3. Section 20162 of the Government Code is repealed.

11 ~~20162. Notwithstanding Section 20160 or Section 20163 or~~
12 ~~any other provision of this part, this system may refrain from~~
13 ~~collecting an underpayment of accumulated contributions,~~
14 ~~whenever the amount to be collected is fifty dollars (\$50) or less.~~

15 SEC. 4. Section 20467 of the Government Code is amended
16 to read:

17 20467. Notwithstanding Section 20466, the approximate
18 contribution quoted by the board and the actual contributions for
19 a contracting agency that is an employer for purposes of Chapter
20 9 (commencing with Section 20790) shall be the employer rate
21 ~~fixed~~ under Chapter 9, plus the additional amount required under
22 that chapter on account of liability for service to date of contract
23 and for benefits with respect to which it is not subject to Section
24 20506, the amount to be determined in accordance with Section
25 20466.

26 SEC. 5. Section 20530.1 of the Government Code is amended
27 to read:

28 20530.1. (a) An agency whose contract provides for
29 participation of its employees in this system ~~on a prospective basis~~
30 may request the employees' service, with the contracting agency,
31 prior to the date the employees became members of this system,
32 be credited under this system. If the employees ~~were or~~ are
33 members of a local retirement system and received service and
34 contribution credits under that local retirement system, credit in
35 this system may be granted if the system administrator certifies
36 that the local system may be transferred, ~~and if a two-thirds~~
37 ~~majority of the affected employees vote in favor of the transfer.~~

38 (b) This section shall apply only to members employed by the
39 contracting agency on the effective date of the *contract or the*
40 amendment to the contract in which the contracting agency elects

1 ~~by amendment to its contract~~ to be subject to the provisions of this
2 section. Any cash and securities to the credit of the local retirement
3 system and held on account of affected employees shall be
4 transferred to this system as of said effective date. ~~The~~

5 *(c) Notwithstanding subdivision (b), the board may make*
6 *arrangements with the agency for the transfer of assets, other than*
7 *an amount equal to the total member contributions all or a portion*
8 *of assets, or all or a portion of service credit, over an appropriate*
9 *period following the effective date of the contract or the*
10 *amendment to the contract, if it finds that transfer as of the*
11 *effective date is not possible without hardship to the agency or its*
12 *employees. Nothing in these arrangements for the partial transfer*
13 *of assets or service credit shall affect the crediting of service for*
14 *purposes of determining eligibility for benefits under this system.*
15 *Interest may be charged at the discretion of the board.*

16 *(d) This section shall may not apply to any contracting agency*
17 *unless and until the agency elects to be subject to the provision of*
18 *this section by contract or amendment to its the contract made in*
19 *the manner prescribed for approval of contracts.*

20 SEC. 6. Section 20533 of the Government Code is amended
21 to read:

22 20533. The employer contribution rate adopted under this
23 part or because of amendments to the contract or to this part, apply
24 to all compensation upon the basis of which member's
25 contributions are deducted after those percentages became or
26 become effective, without regard to the time when the service was
27 rendered for which the compensation is paid.

28 If correction of the amount of compensation reported requires
29 additional ~~contracting agency~~ employer contributions, the
30 contributions shall be computed using the employer rate in effect
31 at the time of the adjustment.

32 SEC. 7. Section 20752 of the Government Code is amended
33 to read:

34 20752. *(a) A member of the Judges' Retirement System, the*
35 *Judges' Retirement System II, the Legislators' Retirement System,*
36 *the State Teachers' Retirement System, the University of*
37 *California Retirement System, or a county retirement system, who*
38 *has withdrawn accumulated contributions from this system shall*
39 *have the right to redeposit those contributions, subject to the same*
40 *conditions as imposed for redeposits of accumulated contributions*

by Section 20750, including the ~~right as~~ *rights that* he or she would have had under Section 20638 had he or she not withdrawn his or her contributions.

(b) Provisions of this section extending a right to redeposit accumulated contributions withdrawn from this system shall also apply to members of any retirement system established under Chapter 2 (commencing with Section 45300) of Division 5 of Title 4 with respect to which an ordinance complying with Section 45310.5 has been filed with, and accepted by, the board or any retirement system established by, or pursuant to, the charter of a city or city and county or by any other public agency of this state which system, in the opinion of the board, provides a similar modification of rights and benefits because of membership in this system and with respect to which the governing body of the city, city and county or public agency and the board have entered into agreement pursuant to Section 20351.

(c) A member who elects to redeposit under this section shall have the same rights ~~with respect thereto~~ as a member who has elected pursuant to Section 20731 to leave his or her accumulated contributions on deposit in the fund.

SEC. 8. Section 20791 of the Government Code is repealed.
~~20791. The state's contribution to the retirement fund with respect to state miscellaneous members is a sum equal to 19.006 percent of the compensation paid during each fiscal year.~~

SEC. 9. Section 20794 of the Government Code is repealed.
~~20794. The contribution to the retirement fund of an employer, some or all of whose employees who are school or miscellaneous members have been included in the federal system, with a reduction in the service retirement allowance because of that inclusion, in respect to miscellaneous members is a sum equal to 7.26 percent of the compensation paid those members employed by that employer.~~

SEC. 10. Section 20795 of the Government Code is repealed.
~~20795. The contribution of an employer, other than one subject to Section 20794, in respect to miscellaneous members is a sum equal to 7.75 percent of the compensation paid miscellaneous members employed by that employer.~~

SEC. 11. Section 20796 of the Government Code is repealed.
~~20796. (a) In addition to any and all other contributions to the retirement fund, the state shall contribute 0.13 percent of the~~

~~compensation paid state members for insurance benefits under Article 4 (commencing with Section 21600) of Chapter 14 and during a period of insurance the contribution shall be credited to the Insurance Benefits Account. The board shall, pursuant to actuarial valuation of the fund in accordance with this part, adjust the rate effective with the beginning of a fiscal year as is determined to be necessary to fund to portion of the insurance benefit prescribed in subdivision (a) of Section 21605. In the event the period of insurance is not continued, the state shall pay to the account any deficiency in the account as of the end of the fiscal year.~~

~~(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.~~

SEC. 12. Section 20800 of the Government Code is repealed.
~~20800. The state's contributions to the retirement fund, with respect to the following classifications, provided by any and all other provisions of this chapter is increased by a sum equal to that percentage of the compensation paid the members set forth opposite each classification in the following table:~~

Classification	Percentage
State miscellaneous31
State patrol55
State safety26
State industrial21

SEC. 13. Section 20801 of the Government Code is repealed.
~~20801. (a) The state's contribution to the retirement fund with respect to state patrol members is a sum equal to 31.18 percent of the compensation paid state patrol members.~~

~~(b) With respect to patrol members in State Bargaining Unit 5, the state shall make the additional contributions specified in Section 20694.~~

SEC. 14. Section 20802 of the Government Code is repealed.

1 ~~20802. The state's contribution to the retirement fund for state~~
2 ~~safety members is a sum equal to 19.94 percent of the~~
3 ~~compensation paid to state safety members by the state on and after~~
4 ~~October 1, 1977.~~

5 SEC. 15. Section 20804 of the Government Code is repealed.

6 ~~20804. The state's contribution to the retirement fund with~~
7 ~~respect to state industrial members is a sum equal to 19.91 percent~~
8 ~~of the compensation paid state industrial members.~~

9 SEC. 16. Section 20807 of the Government Code is repealed.

10 ~~20807. The state shall make contributions on account of~~
11 ~~liability for benefits increased under Section 21622 by Chapter~~
12 ~~799 of the Statutes of 1980 in addition to those otherwise required~~
13 ~~by this part in a sum equal to 0.013 percent of the compensation~~
14 ~~paid state miscellaneous and industrial members by the state,~~
15 ~~0.008 percent of the compensation paid state safety members by~~
16 ~~the state, and 0.010 percent of the compensation paid patrol~~
17 ~~members by the state.~~

18 ~~The contribution of a school employer to the retirement fund~~
19 ~~with respect to school members and local members employed by~~
20 ~~a school district or a county superintendent of schools, and the~~
21 ~~contribution of any employer of a school member, as defined in~~
22 ~~former Section 20019.2 as added by Chapter 213 of the Statutes~~
23 ~~of 1977, for benefits on account of liability for benefits increased~~
24 ~~under Section 21622, by Chapter 799 of the Statutes of 1980 in~~
25 ~~addition to those otherwise required by this part, is increased by~~
26 ~~a sum equal to 0.018 percent of the compensation paid to those~~
27 ~~members.~~

28 SEC. 17. Section 20814 of the Government Code is amended
29 to read:

30 20814. (a) Notwithstanding any other provision of law, the
31 state's contribution as fixed under this chapter shall be adjusted
32 thereafter from time to time in the annual Budget Act according
33 to the following method. As part of the proposed budget submitted
34 pursuant to Section 12 of Article IV of the California Constitution,
35 the Governor shall include the contribution rates submitted by the
36 actuary of the liability for benefits on account of employees of the
37 state. The Legislature shall adopt the actuary's contribution rates
38 and authorize the appropriation in the Budget Act.

39 (b) The employer contribution rates for all other public
40 employers under this system shall be determined on an annual

1 basis by the actuary and shall be effective on the July 1 following
2 notice of *a* change in rate.

3 SEC. 18. Section 20822 of the Government Code is amended
4 to read:

5 20822. From the General Fund in the State Treasury there is
6 appropriated ~~annually, 12 months in arrears, on July 1 of each~~
7 ~~fiscal year, beginning July 1, 1994~~ *quarterly*, to the retirement
8 fund, the state's contribution for *all of the following*:

9 (a) All state miscellaneous members and all other categories of
10 members whose compensation is paid from the General Fund.

11 (b) All university members whose compensation is paid from
12 funds of, or funds appropriated to, the university.

13 (c) All state miscellaneous members who are employed by the
14 State Department of Education or the Department of
15 Rehabilitation and whose compensation is paid from the
16 Vocational Education Federal Fund, the Vocational Rehabilitation
17 Federal Fund, or any other fund received, in whole or in part, as
18 a donation to the state under restrictions preventing its use for state
19 contributions to the retirement system.

20 (d) All state miscellaneous members and all other categories of
21 members whose compensation is paid from the Senate Operating
22 Fund or the Assembly Operating Fund or the Operating Funds of
23 the Assembly and Senate.

24 SEC. 19. Section 20826 of the Government Code is amended
25 to read:

26 20826. The board shall certify to the Controller at the end of
27 each quarter ~~or annual period, as appropriate~~, the total amount of
28 compensation in respect to which state contributions are payable
29 from the General Fund and each other fund in the State Treasury,
30 and the Controller shall ~~thereupon~~ transfer the state's contribution
31 from each fund, respectively, to the retirement fund.
32 Compensation shall be included in the certification at the end of
33 the month in which the member's contributions based upon it are
34 paid.

35 SEC. 20. Section 20903 of the Government Code is amended
36 to read:

37 20903. Notwithstanding any other provisions of this part,
38 when the governing body of a contracting agency determines that
39 because of an impending curtailment of, or change in the manner
40 of performing service, the best interests of the agency would be

1 served, a local member shall be eligible to receive additional
2 service credit if the following conditions exist:

3 (a) The member is employed in a job classification,
4 department, or other organizational unit designated by the
5 governing body of the contracting agency and retires within any
6 period designated in and subsequent to the effective date of the
7 contract amendment, or any additional period or periods
8 designated in any subsequently adopted resolution of the
9 governing body of the contracting agency, provided the period is
10 not less than 90 days nor more than 180 days.

11 (b) The governing body ~~transmits~~ *agrees that the added cost to*
12 *the retirement fund an amount determined by the board which is*
13 *equal to the actuarial equivalent of the difference between the*
14 *allowance the member receives after the receipt of service credit*
15 *under this section and the amount he or she would have received*
16 *without that service credit. The transfer to the retirement fund shall*
17 *be made in a manner and time period acceptable to the employer*
18 *and the board for all eligible employees who retire during the*
19 *specified period shall be included in the contracting agency's*
20 *employer contribution rate, as determined by Section 20814.*

21 (c) The governing body shall certify that it is electing to
22 exercise the provisions of this section, because of impending
23 mandatory transfers, demotions, and layoffs that constitute at least
24 1 percent of the job classification, department, or organizational
25 unit as designated by the governing board, resulting from the
26 curtailment of, or change in the manner of performing, its services.

27 (d) The governing body shall certify that it is its intention at the
28 time that this section is made operative that if any early retirements
29 are granted after receipt of service credit pursuant to this section,
30 that any vacancies thus created or at least one vacancy in any
31 position in any department or other organizational unit shall
32 remain permanently unfilled thereby resulting in an overall
33 reduction in the workforce of the department or organizational
34 unit.

35 (e) The amount of additional service credit shall be two years
36 regardless of credited service.

37 (f) ~~A governing body that elects to make the payment~~
38 ~~prescribed by subdivision (b) shall make the payment with respect~~
39 ~~to all eligible employees who retire during the specified period.~~

1 ~~(e)~~—This section ~~shall not be~~ *is not* applicable to any member
2 otherwise eligible if the member receives any unemployment
3 insurance payments during the specified period.

4 ~~(h)~~

5 (g) Any member who qualifies under this section, upon
6 subsequent reentry to this system shall forfeit the service credit
7 acquired under this section.

8 ~~(i)~~

9 (h) This section ~~shall~~ *does* not apply to any member who is not
10 employed by the contracting agency during the period designated
11 in subdivision (a) and who has less than five years of service credit.

12 ~~(j)~~

13 (i) This section ~~shall~~ *does* not apply to any contracting agency
14 unless and until the agency elects to be subject to the provision of
15 this section by amendment to its contract made in the manner
16 prescribed for approval of contracts, except an election among the
17 employees is not required, or, in the case of contracts made after
18 January 1, 2000, by express provision in the contract making the
19 contracting agency subject to the provisions of this section.

20 Before adopting this provision, the governing body of a
21 contracting agency shall, with timely public notice, place the
22 consideration of this section on the agenda of a public meeting of
23 the governing body, at which time disclosure shall be made of the
24 additional employer contributions, and the funding therefor, and
25 members of the public shall be given the opportunity to be heard.
26 The matter ~~shall~~ *may* not be placed on the agenda as a consent item.
27 Only after the public meeting may the governing body adopt this
28 section. The governing body shall also comply with the
29 requirements of Section 7507. The employer shall notify the board
30 of the employer's compliance with this subdivision at the time of
31 the governing body's application to adopt this section.

32 ~~(k)~~

33 (j) The contracts of contracting agencies that adopted the
34 provisions of former Section 20903, prior to the repeal of that
35 section on January 1, 1999, shall remain in full force and effect in
36 accordance with their terms and the terms of this section.
37 Notwithstanding subdivision ~~(j)~~ (i), those contracting agencies
38 need not amend their contracts or otherwise comply with the
39 requirements of subdivision ~~(j)~~ (i) to be subject to this section.
40 Without limiting the foregoing, eligibility periods under

subdivision (a) of former Section 20903, designated by the governing body of a contracting agency by resolution pursuant to the terms of its contract or contract amendment, shall remain in effect in accordance with their terms as if designated pursuant to this section.

~~(t)~~

(k) Notwithstanding Section 20790, an election to become subject to this section ~~shall~~ *may* not exclude an agency from the definition of “employer” for purposes of Section 20790.

SEC. 21. Section 20908 of the Government Code is repealed.

~~20908. Notwithstanding any other provision of law, a member upon any subsequent service under unpaid contract or any other unpaid basis with the Trustees of the California State University, shall not be required to forfeit the service credits acquired under former Section 20822, as added by Chapter 450 of the Statutes of 1992.~~

SEC. 22. Section 21000 of the Government Code is repealed.

~~21000. “Leave of absence” means time during which a state employee was absent from state service on war relocation leave.~~

~~“War relocation leave” means the period of absence from state service occasioned by the evacuation and relocation of a member pursuant to orders issued by the commanding officer of the Western Defense Command in March 1942, for the evacuation of persons of Japanese descent from the area, where the member was in state service 90 days before or after March 5, 1942, and who later returned to state service. War relocation leave of a member shall include the period of time from the separation of a member from state service until his or her return to state service or July 1, 1947, whichever is earlier.~~

~~This section shall also be applicable to school members who were absent from service with a school district or a county superintendent of schools on war relocation leave.~~

~~When a school member received service credit under this section, his or her school employer shall transmit to the retirement fund a lump sum amount determined by the board that is the actuarial equivalent of the cost for that service credit as of the date of election by the member to receive service credit under this section less the contributions paid by the school member on account of such service credit.~~

1 SEC. 23. Section 21051 of the Government Code is amended
2 to read:

3 21051. (a) A member electing to receive credit for service
4 subject to this section shall contribute, in accordance with Section
5 21050, an amount equal to the following:

6 ~~(a)~~

7 (1) The contributions the member would have made to the
8 system for the period for which current service credit is granted,
9 assuming that the rate of contribution under his or her employer's
10 formula at the rate age applicable to him or her at the beginning of
11 his or her first subsequent period of service in membership and his
12 or her compensation earnable on that date had applied to the
13 member during the period for which credit is granted.

14 ~~(b)~~

15 (2) The interest that would have accrued on those contributions
16 if they had been deposited at the beginning date of his or her first
17 subsequent period of service in membership, from that date until
18 the date of completion of payments.

19 ~~(c)~~

20 (3) If the member is authorized under Section 21050 to
21 contribute in other than a ~~lump-sum~~ *lump-sum payment*, interest on
22 the unpaid balance of the amounts payable under paragraphs (1)
23 and (2), which interest shall begin to accrue as of the date of the
24 election to receive credit.

25 (b) The beginning date of the first subsequent period of service,
26 for purposes of computation of contributions and interest, shall be
27 deemed to be the end of the period of service credited for a member
28 who has no subsequent return to service.

29 SEC. 24. Section 21261 of the Government Code is amended
30 to read:

31 21261. The sole purpose of this section is to notify the current
32 spouse of the selection of benefits or change of beneficiary made
33 by a member. ~~Nothing in this~~ *This section is not* intended to
34 conflict with community property law. An application for a refund
35 of the member's accumulated contributions, an election of
36 optional settlement, *a designation of beneficiary*, or a change in
37 beneficiary designation shall contain the signature of the current
38 spouse of the member, unless the member declares, in writing
39 under penalty of perjury, any of the following:

40 (a) The member is not married.



1 (b) The current spouse has no identifiable community property
2 interest in the benefit.

3 (c) The member does not know, and has taken all reasonable
4 steps to determine, the whereabouts of the current spouse.

5 (d) The current spouse has been advised of the application and
6 has refused to sign the written acknowledgment.

7 (e) The current spouse is incapable of executing the
8 acknowledgment because of *an* incapacitating mental or physical
9 condition.

10 (f) The member and the current spouse have executed a
11 marriage settlement agreement pursuant to Part 5 (commencing
12 with Section 1500) of Division 4 of the Family Code that makes
13 the community property law inapplicable to the marriage.

14 SEC. 25. Section 21262 of the Government Code is repealed.

15 ~~21262. An application for a refund of the member's~~
16 ~~accumulated contributions or an election of optional settlement~~
17 ~~and beneficiary designation shall contain the signature of the~~
18 ~~current spouse of the member, unless the member makes, in~~
19 ~~writing under penalty of perjury, any of the following declarations:~~

20 ~~(a) That the member is not married.~~

21 ~~(b) That the member does not know, and has taken all~~
22 ~~reasonable steps to determine, the whereabouts of the current~~
23 ~~spouse.~~

24 ~~(c) That the current spouse has been advised of the application~~
25 ~~and has refused to sign the written acknowledgment.~~

26 ~~(d) That the current spouse is incapable of executing the~~
27 ~~acknowledgment because of incapacitating mental or physical~~
28 ~~condition.~~

29 ~~(e) That the member and the current spouse have executed a~~
30 ~~marriage settlement agreement pursuant to Part 5 (commencing~~
31 ~~with Section 1500) of Division 4 of the Family Code that makes~~
32 ~~the community property law inapplicable to the marriage.~~

33 ~~No retirement or refund payment shall be made when there is no~~
34 ~~spousal signature or when the member has made no declarations.~~

35 ~~The sole purpose of this section is to notify the current spouse~~
36 ~~of the selection of specified benefits made by a member.~~

37 SEC. 26. Section 21401 of the Government Code is repealed.

38 ~~21401. Upon retirement for disability, a state miscellaneous~~
39 ~~member or a state industrial member, other than one subject to~~

1 ~~Section 21423, who has attained age 65 shall receive his or her~~
2 ~~service retirement allowance.~~

3 SEC. 27. Section 21407 of the Government Code is amended
4 to read:

5 21407. Upon retirement of a state peace officer/firefighter
6 member or a local safety member subject to Section 21363 ~~or~~,
7 21363.1, 21363.3, *or 21363.4* for industrial disability, the member
8 shall receive a disability allowance of 50 percent of his or her final
9 compensation plus an annuity purchased with his or her
10 accumulated additional contributions, if any, or, if qualified for
11 service retirement, the member shall receive his or her service
12 retirement allowance if the allowance, after deducting the annuity,
13 is greater.

14 SEC. 28. Section 21424 of the Government Code is amended
15 to read:

16 21424. ~~The~~ *Other than an industrial disability retirement*
17 *pension, the* disability retirement pension for state miscellaneous
18 or state industrial service subject to Section 21076 shall be one of
19 the following:

20 (a) Ninety percent of the factor applicable at *the age of 65 years*,
21 as set forth in Section 21076 ~~times~~, *multiplied by* final
22 compensation, multiplied by the number of years of service
23 credited to him or her.

24 (b) If the disability retirement allowance computed under
25 subdivision (a) does not exceed one-third of his or her final
26 compensation, 90 percent of the benefit that would be payable to
27 the member had the member continued in employment until *the*
28 *age of 65 years*, but in that case the retirement allowance ~~shall~~ *may*
29 not exceed one-third of the final compensation. This subdivision
30 is not applicable to members who are not ~~entitled~~ *credited*, at the
31 time of retirement, ~~to be credited~~ with at least 10 years of state
32 service.

33 (c) If the disability retirement allowance is derived from this
34 section and Section 21423, and would otherwise exceed the
35 maximums provided by these sections, the pension payable with
36 respect to each section shall be reduced in the same proportion as
37 the allowance bears to the total allowance computed as though
38 there was no limit, so that the total of the pensions shall equal the
39 maximum allowed.

(d) *If qualified for service retirement, the member shall receive his or her service retirement allowance if that allowance is greater than the disability retirement allowance provided by this section.*

SEC. 29. Section 21465 of the Government Code is amended to read:

21465. (a) Optional settlement 5 consists of a partial distribution of the actuarial present value of the portion, as specified in this section, of the member's unmodified monthly allowance, as prescribed in Section 21362, 21362.2, 21363, ~~or 21363.1, 21363.4, or Section 21423~~, when a service retirement allowance is payable. The actuarial present value shall be based upon the investment return and postretirement mortality assumptions adopted by the board for that purpose. The member may elect to receive the actuarial present value of no less than 20 percent and no more than 50 percent of his or her unmodified allowance. The member may elect to receive the remaining portion of the unmodified allowance, not distributed as a ~~lump-sum~~ *lump-sum payment*, under one of the settlements specified in this article for the remainder of his or her lifetime and thereafter to his or her designated beneficiary, unless this amount is solely limited to the survivor continuance portion. ~~Under no circumstances shall the~~ *The* portion of the unmodified allowance equivalent to the survivor continuance pursuant to Section 21624 *may not* be distributed as a ~~lump-sum~~. ~~Under no circumstances shall the lump-sum payment. The~~ benefits provided under this section *may not* exceed the benefits that would have otherwise been provided under any other section in this article.

(b) This section shall only apply to the following members who retire on or after January 1, 1999:

(1) State peace officer/firefighter members in State Bargaining Unit 6.

(2) State peace officer/firefighter members in State Bargaining Unit 8 and state patrol members in State Bargaining Unit 5, ~~provided that if~~ a memorandum of understanding has been agreed upon by the state and the recognized employee organization to become subject to this section.

(3) This section shall also apply to state peace officer/firefighter members and state patrol members in related supervisory and confidential positions, ~~provided if~~ the Department of Personnel Administration has approved their inclusion.

SEC. 30. Section 21499 of the Government Code is amended to read:

21499. (a) Notwithstanding Section 21498, when either an initial payment of a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit is payable in an amount of ten dollars (\$10) or more, it shall be authorized to the Controller within 45 days of receipt by this system of all the necessary information, including the return of warrants issued or any overpayment outstanding after the date of the death of the annuitant.

(b) If any payment is not made within that time limitation, the payment shall also include interest at *the greater of the interest crediting rate specified in Section 20178 or the net earnings rate* (including capital gains and losses) in effect at the time the payment is made, for time following the expiration of that time limitation.

(c) ~~This~~ The system shall submit, annually, as part of the report required by Section 20237, to the Legislature and the Governor a summary of the experience of ~~this~~ the system in making payments pursuant to subdivision (b).

SEC. 31. Section 21535 of the Government Code is amended to read:

21535. Notwithstanding Section 20178, for member deaths occurring on or after January 1, 1994, *if the actuarial interest rate exceeds 6 percent*, the accumulated contributions of a member payable pursuant to subdivision (a) of Section 21532 shall be increased by a factor determined by the board that is based on the difference, ~~at each June 30 subsequent to January 1, 1994, between the lesser of the current interest rate or the current annual interest rate between the current actuarial interest rate defined in Section 20014 and the 6 percent interest crediting rate on member contributions. If the actuarial interest rate is less than 6 percent, no increase may be provided under this section.~~

SEC. 32. Section 21621 of the Government Code is amended to read:

21621. If the beneficiary of a member retired under this system is entitled to receive a comparable lump-sum death benefit from any other retirement system supported, in whole or in part, by public funds in which he or she was a member in employment subsequent to his or her last employment in which he or she was

1 a member of this system, no payment shall be made under Section
2 21620, 21622, ~~or~~ 21623, 21623.5, or 21623.6 providing for
3 payment of a lump-sum death benefit to a member's designated
4 beneficiary.

5 SEC. 33. The heading of Part 3.4 (commencing with Section
6 21750) of Division 5 of Title 2 of the Government Code is
7 amended to read:

8
9 PART 3.4. INTERNAL REVENUE CODE COMPLIANCE
10 AND REPLACEMENT BENEFIT ~~PROGRAM PLAN~~

11
12 SEC. 34. Section 22857 of the Government Code is amended
13 to read:

14 22857. A contracting agency, including a school district,
15 county board of education, personnel commission of a school
16 district, or a county superintendent of schools, that has elected to
17 be subject to this part:

18 (a) Shall by resolution establish the employer contribution for
19 employees and the employer contribution for annuitants. The
20 resolution shall be filed with the board and the contribution shall
21 be effective at the time that is provided in board regulations.

22 (b) *May, notwithstanding any other provision of this part,*
23 *establish a greater monthly employer contribution for annuitants*
24 *than employees.*

25 (c) *May, notwithstanding Section 22825, establish a lesser*
26 *monthly employer contribution for annuitants than for employees,*
27 *provided that the monthly contribution for annuitants shall be*
28 *annually increased by an amount not less than 5 percent of the*
29 *monthly employer contribution for employees, until the time that*
30 *the employer contribution for annuitants equals the employer*
31 *contribution paid for employees.*

32 This subdivision shall only apply to agencies ~~who~~ *that* first
33 become subject to this part on or after January 1, 1986.

34 SEC. 35. Section 50953 of the Government Code is amended
35 to read:

36 50953. (a) (1) The award system shall be administered by
37 the board. All provisions of the Public Employees' Retirement
38 Law, Part 3 (commencing with Section 20000) of Division 5 of
39 Title 2, governing the board's rights, powers, duties, obligations,
40 and procedures in administration of that system and investment of

1 the Public Employees' Retirement Fund which are not
2 inconsistent with this chapter shall apply with equal force and
3 effect to the award system and the investment of the fund created
4 under this chapter.

5 (2) In addition to ~~such~~ *those* powers and duties, the board shall
6 determine if participation in the system is adequate to insure that
7 sufficient funds will be available for the payment of awards on an
8 actuarial reserve basis before any awards are paid. If the board
9 determines that participation in the system is inadequate to assure
10 the financial success of the system, it shall terminate the system
11 prior to payment of the first award. In case of termination,
12 evaluation fees shall be considered to have been fully earned and
13 are nonrefundable.

14 *(b) Notwithstanding subdivision (a), the assets of the fund*
15 *attributable to the benefit of registered volunteers of a department*
16 *are subject to the claims of creditors of the department in the case*
17 *of the insolvency of the department. The assets of the fund that are*
18 *not attributable to the benefits of registered volunteers of an*
19 *insolvent department are not subject to the claims of the creditors*
20 *of the insolvent department.*

21 SEC. 36. Section 75030.9 of the Government Code, as added
22 by Chapter 433 of the Statutes of 2001, is amended and
23 renumbered to read:

24 ~~75030.9.~~

25 75030.8. (a) A judge may elect, by written election filed with
26 the board at any time prior to retirement, to make contributions and
27 receive service credit for all of the time he or she served as a
28 full-time subordinate judicial officer, as defined in Section 71601,
29 prior to becoming a judge, excluding any period of time for which
30 the judge is receiving, or is entitled to receive, a retirement
31 allowance from any other public retirement system.

32 (b) A judge electing to receive credit for service pursuant to
33 subdivision (a) shall, at the time of filing his or her election, pay
34 to the Judges' Retirement Fund, a sum equal to the actuarial
35 present value of the increase in benefits due to the additional
36 service. The amount shall be determined by the Judges'
37 Retirement System in accordance with this section.

38 SEC. 37. Section 75031.5 is added to the Government Code,
39 to read:

75031.5. (a) A judge may elect, by written election filed with the Judges' Retirement System, to make contributions, and receive service credit in this system for active service, prior to entering the system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit granted for that service may be on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge electing to receive credit for that service shall have at least one year of judicial service credited on the date of election or the date of retirement. If the service described in this subdivision terminated with a dishonorable discharge, service credit in the system may not be granted under this section.

(b) For purposes of this section, a judge means a judge as defined in Section 75002 or a judge who has retired pursuant to Section 75025 or has elected a deferred retirement subject to Section 75033.5.

(c) The retirement allowance of a retired judge who elects to receive service credit pursuant to this section shall be increased only with respect to the allowance payable on and after the date of election.

(d) A judge who elects to receive credit for service pursuant to this section shall contribute to the Judges' Retirement Fund a sum equal to the actuarial present value of the increase in benefits due to the additional service, as determined by the chief actuary and approved by the board.

(e) An election by a judge to receive credit for service under this section shall be effective only if accompanied by a lump-sum payment or an authorization for payment, other than a lump-sum payment, in accordance with regulations adopted by the board.

SEC. 38. Section 75093 of the Government Code is amended to read:

75093. (a) Notwithstanding any other provisions of this article to the contrary, the surviving spouse of any judge who died in office on or after January 1, 1987, shall receive a monthly

1 allowance, equal to 25 percent of the monthly salary payable at the
2 time payment of the allowance falls due, to the judge last holding
3 the judicial office to which the deceased judge was last elected or
4 appointed.

5 (b) A surviving spouse who receives an allowance pursuant to
6 this section, shall have no other claim with respect to the Judges'
7 Retirement Fund or with respect to any other provisions of the
8 Judges' Retirement Law except that a surviving spouse who
9 receives an allowance pursuant to this section on account of a death
10 in office on or after January 1, 1987, and who was eligible to elect
11 the allowance payable pursuant to Section 75091, may elect,
12 within a 24-month period after the date of the death of the judge,
13 to become subject to Section 75091 in lieu of the benefit payable
14 pursuant to this section, and that any surviving spouse who was,
15 prior to January 1, 1987, eligible to elect the monthly allowance
16 provided by Section 75091 but, instead, had elected at the time of
17 the judge's death, the monthly allowance payable pursuant to this
18 section, may elect, within a 24-month period after the date of the
19 death of the judge, to receive the monthly allowance provided by
20 Section 75091 in lieu of the benefit payable pursuant to this
21 section. An election revoking the benefit payable pursuant to this
22 section and electing to receive the monthly allowance payable
23 pursuant to Section 75091 shall be filed with the Judges'
24 Retirement System and the effective date of payment provided by
25 Section 75091 shall be the first of the month following the date on
26 which that election was filed.

27 (c) *This section does not prevent a surviving spouse from*
28 *claiming or receiving any payments to which he or she may be*
29 *entitled as a beneficiary under the Extended Service Incentive*
30 *Program set forth in Article 4.5 (commencing with Section 75085).*

31 (d) If the surviving spouse has received a benefit under
32 Division 4 (commencing with Section 3201) of the Labor Code,
33 on account of the death of ~~such a person~~ a judge, the amount of
34 ~~any such~~ that benefit shall be deducted from the allowance payable
35 under this section.

36 (e) The allowance provided by this section shall be payable
37 commencing with the day following the date of the judge's death.

38 (f) This section does not apply to the death of any retired judge
39 while serving on assignment in any court.

SEC. 39. Section 75094 of the Government Code is amended to read:

75094. (a) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (1) died in office, (2) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (3) was eligible to receive an allowance pursuant to Section 75025 or 75033.5, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75071.

(b) A surviving spouse receiving an allowance pursuant to this section shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement Law.

(c) The benefits provided by this section are only payable to the surviving spouse of a judge who elects to come within this section. Notwithstanding Section 75090, that election may be made at any time while the judge is in office and, once made, the election is irrevocable.

(d) *This section does not prevent a surviving spouse from claiming or receiving any payments to which he or she may be entitled as a beneficiary under the Extended Service Incentive Program set forth in Article 4.5 (commencing with Section 75085).*

SEC. 40. Section 75506.6 is added to the Government Code, to read:

75506.6. (a) A judge may elect, by written election filed with the Judges' Retirement System II, to make contributions and receive service credit in this system for active service, prior to entering this system, of not less than one year in the Armed Forces of the United States or not less than one year in the Merchant Marine of the United States prior to January 1, 1950, excluding any period of that active service for which the judge is receiving, or is entitled to receive, a retirement allowance from any other retirement system supported wholly or in part by public funds. The service credit granted shall be on the basis of one year of credit for each year of credited service in this system, but may not exceed a total of four years of service credit regardless of the number of years of either that service or subsequent judicial service. A judge

1 electing to receive credit for that service shall have at least one year
2 of judicial service credited on the date of the election or the date
3 of retirement. If the service described in this subdivision
4 terminated with a dishonorable discharge, service credit in the
5 system may not be granted under this section.

6 (b) For purposes of this section, a judge means a judge as
7 defined under Section 75502 or a judge who has retired under
8 Section 75521 or 75522.

9 (c) The retirement allowance of a retired judge who elects to
10 receive service credit pursuant to this section shall be increased
11 only with respect to the allowance payable on and after the date of
12 election.

13 (d) A judge who elects to receive credit for service pursuant to
14 this section shall contribute to the Judges' Retirement Fund II a
15 sum equal to the actuarial present value of the increase in benefits
16 due to the additional service, as determined by the chief actuary
17 and approved by the board.

18 (e) An election by a judge to receive credit for service under
19 this section shall be effective only if accompanied by a lump-sum
20 payment or an authorization for payment, other than a lump-sum
21 payment, in accordance with regulations adopted by the board.

22 SEC. 41. Section 75580 of the Government Code is amended
23 to read:

24 75580. (a) ~~If, after retirement a judge who is retired for~~
25 ~~disability, a retired judge engages in the practice of law or other~~
26 ~~gainful occupation while less than 70 years of age that requires the~~
27 ~~discharge of duties substantially similar to those duties that the~~
28 ~~judge was found, pursuant to Section 75560.1, to be unable to~~
29 ~~perform due to mental or physical disability, the retirement~~
30 ~~allowance otherwise payable to him or her shall cease~~
31 ~~permanently, except as provided in this section. If~~

32 (b) ~~If~~ a retired judge becomes entitled to any salary for
33 assignment to a court by the Chairperson of the Judicial Council
34 after retirement for disability, the retirement allowance otherwise
35 payable shall, during the time he or she is entitled to receive that
36 salary or other compensation, be reduced by the amount of that
37 salary or compensation.

38 ~~(b)~~
39 (c) A judge who is retired for disability ~~and is less than 70 years~~
40 ~~of age~~ may, without loss or reduction in allowance, engage in the

1 practice of law or any other gainful occupation *that does not*
2 *require the discharge of duties substantially similar to those duties*
3 *the judge was found, pursuant to Section 75560.1, to be unable to*
4 *perform due to mental or physical disability*, other than a public
5 office, as long as the compensation earned in any month when
6 combined with the judge's allowance does not exceed 75 percent
7 of the salary payable to the judge holding the judicial office to
8 which the retired judge was last elected or appointed, and the
9 retirement allowance otherwise payable to the judge shall be
10 reduced by the amount of any earning in excess of that amount.
11 The judge shall report the compensation earned during each month
12 to the board by the eighth day of the following month.

13 ~~(e)~~

14 (d) Persons affected by this section shall report all
15 compensation earned in a form and manner required by the board
16 under penalty of perjury. The board shall have the authority to
17 require these persons to grant the board permission to request wage
18 information for the purposes of verifying the reported
19 compensation earned. The Employment Development
20 Department shall report compensation in a form and manner
21 required by the board in accordance with Section 1798.24 of the
22 Civil Code. The board shall reimburse the Employment
23 Development Department for the costs that the department incurs
24 in searching for and providing that information.

25 ~~(d) When a person affected by this section reaches 70 years of~~
26 ~~age, his or her~~

27 (e) *When a judge affected by subdivision (c) reaches the age at*
28 *which the judge would be eligible to retire for services pursuant to*
29 *Section 75522 had the judge not retired for disability, the judge's*
30 retirement allowance shall be made equal to the amount it would
31 be if not reduced pursuant to this section, and ~~shall~~ *may* not again
32 be modified for any cause.

33 ~~(e)~~

34 (f) A judge who is retired for disability pursuant to this chapter
35 or becomes entitled to any salary for assignment to a court by the
36 Chairperson of the Judicial Council after retirement for disability
37 pursuant to this chapter ~~shall~~ *is not be* eligible to receive service
38 credit in another public retirement system or pursuant to this
39 chapter or to be reinstated to this system.

40 ~~(f)~~

(g) The Legislature reserves the right to increase or reduce the benefits prescribed by this section as it may find appropriate.

SEC. 42. Section 75590 of the Government Code is amended to read:

75590. (a) A surviving spouse of a judge who was eligible to retire pursuant to subdivision (a) of Section 75522 shall, within 90 days after the judge's death, elect to receive either of the following:

(1) A monthly retirement allowance equal to one-half of the judge's benefit factor computed as stated in subdivision (d) of Section 75522 as of the date of death, multiplied by the judge's final compensation multiplied by the number of years of service credit. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(2) The judge's monetary credits determined pursuant to Section 75520, including the credits added under subdivision (b) of that section computed to the last day of the month preceding the date of distribution.

(b) A surviving spouse of a retired judge who elected to receive a monthly allowance under subdivision (d) of Section 75522 or who was retired for disability and receiving an allowance under Section 75560.4 shall receive a monthly allowance equal to 50 percent of the deceased judge's last monthly retirement allowance. This allowance shall be adjusted for changes in the cost of living as provided in Section 75523.

(c) (1) Notwithstanding any other provision of this article to the contrary, the surviving spouse of a judge who (A) died in office, (B) had attained the minimum age for service retirement applicable to the judge preceding his or her death, with a minimum of 20 years of service, and (C) was eligible to receive an allowance pursuant to Section 75522, shall receive an allowance that is equal to the amount that the judge would have received if the judge had been retired from service on the date of death and had elected optional settlement 2 specified in subdivision (b) of Section 75571.

(2) A surviving spouse receiving an allowance pursuant to this subdivision shall have no other claim to benefits with respect to the Judges' Retirement Fund or with respect to any other provision of the Judges' Retirement System II Law.

(3) The benefits provided by this subdivision are only payable to the surviving spouse of a judge who elects to come within this

1 subdivision. That election may be made at any time while the judge
2 is in office and, once made, the election is irrevocable.

3 *(d) A monthly allowance payable to a surviving spouse*
4 *pursuant to this section is payable commencing upon the death of*
5 *the judge and continuing until the death of the surviving spouse.*

6 SEC. 43. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety
8 within the meaning of Article IV of the Constitution and shall go
9 into immediate effect. The facts constituting the necessity are:

10 In order to facilitate the orderly administration of public
11 retirement systems subject to this act at the earliest possible time,
12 it is necessary that this act take effect immediately.

